

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:) Chapter 11
)
FORESIGHT ENERGY LP, *et al.*,) Case No. 20-41308-659
)
Debtors.¹) (Joint Administration Requested)
)
) Hearing Date: March 11, 2020
) Hearing Time: 10:00 a.m. (Central Time)
) Hearing Location: Courtroom 7 North

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
(A) SCHEDULING EXPEDITED HEARINGS ON CERTAIN
FIRST DAY MOTIONS AND APPLICATIONS, (B) APPROVING THE FORM
AND MANNER OF NOTICE THEREOF, AND (C) GRANTING RELATED RELIEF**

Foresight Energy LP and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors") respectfully state as follows in support of this motion (this "Motion"):

Relief Requested

1. By this Motion, the Debtors seek entry of an order (the "Proposed Order"),² pursuant to section 105 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule

¹ The Debtors in these cases are each incorporated or organized in the state of Delaware, and along with the last four digits of each Debtor's federal tax identification number (or SEC filing number if unavailable), are: Foresight Energy LP (8894); Foresight Energy GP LLC (8332); Foresight Energy LLC (7685); Foresight Energy Employee Services Corporation (7023); Foresight Energy Services LLC (6204); Foresight Receivables LLC (2250); Sugar Camp Energy, LLC (8049); Macoupin Energy LLC (9005); Williamson Energy, LLC (9143); Foresight Coal Sales LLC (8620); Tanner Energy LLC (0409); Sitran LLC (9962); Seneca Rebuild LLC (0958); Oeneus LLC (6007); Adena Resources, LLC (4649); Hillsboro Transport LLC (6881); American Century Transport LLC (SEC No. 5786); Akin Energy LLC (1648); American Century Mineral LLC (SEC No. 5788); Foresight Energy Finance Corporation (5321); Foresight Energy Labor LLC (4176); Viking Mining LLC (4981); M-Class Mining, LLC (5272); MaRyan Mining LLC (7085); Mach Mining, LLC (4826); Logan Mining LLC (2361); LD Labor Company LLC (8454); Coal Field Repair Services LLC (9179); Coal Field Construction Company LLC (5694); Hillsboro Energy LLC (1639); and Patton Mining LLC (7251). The address of the Debtors' corporate headquarters is One Metropolitan Square, 211 North Broadway, Suite 2600, St. Louis, Missouri 63102.

² A copy of the Proposed Order will be made available on the Debtors' case information website at <http://cases.primeclerk.com/foresightenergy>.

9013-2(A) of the Local Rules of the Bankruptcy Court for the Eastern District of Missouri (the “Local Bankruptcy Rules”), (a) scheduling expedited hearings at the Court’s earliest convenience for consideration of the Debtors’ First Day Motions (as defined below) described on the proposed first day agenda, attached hereto as **Exhibit A** (the “Proposed First Day Agenda”), (b) approving the form and manner of notice thereof (the “First Day Notice”), attached hereto as **Exhibit B**, and (c) granting related relief.

Jurisdiction and Venue

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 9.01(B) of the Local Rules of the United States District Court for the Eastern District of Missouri. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

3. The statutory and legal predicates for the relief requested herein are section 105 of the Bankruptcy Code, Bankruptcy Rule 9006(c), and Local Bankruptcy Rule 9013-2(A).

Background

4. On the date hereof (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are a leading producer of thermal coal, with four mining complexes and nearly 2.1 billion tons of proven and probable coal reserves strategically located near multiple rail and river transportation access points in the Illinois Basin. The Debtors also own a barge-loading river terminal on the Ohio River. From this strategic position, the Debtors sell their coal primarily to electric utility and industrial companies located in the eastern half of the United States and across the international market.

5. The Debtors continue to manage and operate their businesses as debtors in possession under sections 1107 and 1108 of the Bankruptcy Code. Contemporaneously herewith, the Debtors filed a motion requesting joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No trustee, examiner or official committee has been appointed in these chapter 11 cases.

6. Information regarding the Debtors' businesses, their capital and debt structure, the events leading to the filing of these cases, and the terms and structure of the proposed restructuring transaction is set forth in the *Declaration of Robert D. Moore, President and Chief Executive Officer of Foresight Energy LP, in Support of Chapter 11 Petitions* (the "Moore Declaration"), the *Declaration of Alan Boyko, Senior Managing Director of FTI Consulting, Inc., in Support of Chapter 11 Petitions and First Day Relief* (the "Boyko Declaration"), and the declaration of Seth Herman in support of the Debtors' motion for approval of debtor-in-possession financing and use of cash collateral (the "Herman Declaration," and together with the Moore Declaration and Boyko Declaration, the "First Day Declarations"),³ each filed contemporaneously herewith.

Basis for Relief Requested

7. On the Petition Date, the Debtors filed certain motions requesting first day relief (the "First Day Motions") to be heard by this Court on an expedited basis. Prompt entry of orders granting the relief requested in the First Day Motions is critical to maintaining the Debtors' ongoing operations.

8. Section 105(a) of the Bankruptcy Code authorizes the requested relief. Section 105(a) of the Bankruptcy Code allows the Court to "issue any order, process, or

³ The First Day Declarations are being filed in support of this Motion and are incorporated herein by reference. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declarations.

judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code.]” 11 U.S.C. § 105(a). It permits a bankruptcy court to take whatever action “is appropriate or necessary in aid of the exercise of its jurisdiction.” 2 COLLIER ON BANKRUPTCY ¶ 105.01. Further, Bankruptcy Rule 9006(c) provides that the Court, for cause shown, may in its discretion reduce the notice period normally required for motions.

9. Moreover, Local Bankruptcy Rule 9013-2(A) provides that an expedited hearing may be granted upon a movant’s “written motion, setting forth the reason the matter should be heard on an expedited or emergency” basis. Local Bankruptcy Rule 9013-3(A)(1) recognizes the need for an expedited hearing on the first day matters, instructing that such motions are typically heard within 48 hours of a filing. Here, an expedited hearing on the First Day Motions is appropriate and is consistent with past practice in virtually every significant chapter 11 case to ensure a debtor’s smooth transition into chapter 11.

10. Courts in this and other districts have routinely granted relief similar to the relief requested herein in other chapter 11 cases. *See, e.g., In re Payless Holdings LLC*, No. 19-40883 (KAS) (Bankr. E.D. Mo. Fe. 26, 2019) [Docket No.: 297]; *In re Armstrong Energy, Inc.*, No. 17-47541 (KAS) (Bankr. E.D. Mo. Nov. 2, 2017) [Docket No.: 93]; *In re Peabody Energy Corp.*, No. 16-42529 (BSS) (Bankr. E.D. Mo. Apr. 15, 2016) [Docket No.: 115]; *In re Noranda Aluminum, Inc.*, No. 16-10083 (BSS) (Bankr. E.D. Mo. Feb. 9, 2016) [Docket No.: 80]; *In re Arch Coal, Inc.*, No. 16-40120 (CER) (Bankr. E.D. Mo. Jan. 14, 2016) [Docket No.: 87]. The Debtors submit that the circumstances of these chapter 11 cases warrant granting similar relief, and that doing so is in the best interests of the Debtors, their estates, their creditors, and their stakeholders, and therefore should be granted.

Notice

11. Notice of this Motion will be provided to: (a) the Office of the United States Trustee for Region 13; (b) counsel to the Ad Hoc First Lien Group; (c) counsel to the Ad Hoc Crossover Group; (d) counsel to the Facilities Agent; (e) counsel to the Term Agent; (f) counsel to the Indenture Trustee; (g) counsel to the collateral trustee under the Debtors' secured debt facilities; (h) counsel to the DIP Agent; (i) counsel to DIP Lenders; (j) counsel to Murray Energy Corporation; (k) counsel to Reserves; (l) counsel to Javelin; (m) counsel to Uniper Global Commodities UK Limited; (n) the Internal Revenue Service; (o) the Securities and Exchange Commission; (p) the United States Attorney's Office for the Eastern District of Missouri; (q) the state attorneys general for all states in which the Debtors conduct business; (r) the holders of the thirty (30) largest unsecured claims against the Debtors, on a consolidated basis; (s) counsel to the Committee; and (t) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). Notice of this Motion and any order entered hereon will be served in accordance with Local Bankruptcy Rule 9013-3(A)(1). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

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WHEREFORE, the Debtors respectfully request entry of the Proposed Order,
granting the relief requested herein and such other relief as is just and proper.

Dated: March 10, 2020
St. Louis, Missouri

Respectfully submitted,

ARMSTRONG TEASDALE LLP

/s/ Richard W. Engel, Jr.

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*Proposed Counsel to the Debtors and
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Exhibit A

Proposed First Day Agenda

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:) Chapter 11
)
FORESIGHT ENERGY LP, *et al.*,) Case No. 20-41308-659
)
Debtors.¹) (Joint Administration Requested)
)
) Hearing Date: March 11, 2020
) Hearing Time: 10:00 a.m. (Central Time)
) Hearing Location: Courtroom 7 North

**PROPOSED FIRST DAY AGENDA FOR HEARING
ON MARCH 11, 2020 AT 10:00 A.M. (PREVAILING CENTRAL TIME)**

In support of the following relief requested at the first day hearing, the Debtors refer the Court to the Declaration of Robert D. Moore in Support of Chapter 11 Petitions [Docket No. 17].

A. INTRODUCTORY PRESENTATION

B. ADMINISTRATIVE MOTIONS

1. **“Expedited First Day Hearing”** – Debtors’ Motion for Entry of an Order
(A) Scheduling Expedited Hearings on Certain First Day Motions and

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Applications, (B) Approving the Form and Manner of Notice Thereof, and (C) Granting Related Relief.

Status: This matter is going forward.

2. **“Exceed Page Limitations”** – Debtors’ Motion for Leave to Exceed Page Limitations in Their First Day Motions [**Docket No. 34**]

Status: This matter is going forward.

3. **“Joint Administration”** – Debtors’ Motion for Entry of an Order Authorizing Joint Administration of Chapter 11 Cases [**Docket No. 3**]

Status: This matter is going forward.

C. **OPERATIONAL MOTIONS**

4. **“Cash Collateral & DIP Financing Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing, (B) Grant Senior Secured Priming Liens and Superpriority Administrative Expense Claims, and (C) Utilize Cash Collateral; and (II) Granting Adequate Protection to the Prepetition Secured Parties; (III) Modifying the Automatic Stay; (IV) Scheduling Final Hearing; and (V) Granting Related Relief [**Docket No. 29**]

Related Documents: Declaration of Seth Herman in Support of the Cash Collateral & DIP Financing Motion

Status: This matter is going forward.

5. **“Cash Management Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing Continued Use of the Debtors’ Existing Cash Management System; (B) Authorizing Use of Existing Bank Accounts and Business Forms; (C) Granting a Limited Waiver of Requirements of Section 345(b) of the Bankruptcy Code; (D) Authorizing Continuation of Ordinary Course Intercompany Transactions; (E) Granting Administrative Expense Priority Status to Postpetition Intercompany Claims; and (F) Granting Related Relief [**Docket No. 4**]

Status: This matter is going forward.

6. **“Vendors Motion”** – Motion for Entry of Interim and Final Orders (A) Authorizing Debtors to Pay Prepetition Claims of Trade and Lien Claimants and Authorizing Payment Procedures Related Thereto, (B) Authorizing Debtors to Pay Royalty and Leasehold Claims, (C) Granting Administrative Expense Priority to Outstanding Orders, and (D) Granting Related Relief [**Docket No. 5**]

Status: This matter is going forward.

7. **“Wages and Benefits Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing Debtors to Pay Prepetition Wages and Workforce Obligations, (B) Authorizing Debtors to Maintain Workforce Programs and Pay Related Obligations, and (C) Granting Related Relief [**Docket No. 6**]

Status: This matter is going forward.

8. **“Coal Sale Contracts Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to (I) Perform Under Existing Coal Sale Contracts in the Ordinary Course of Business and (II) Enter Into and Perform Under New Coal Sale Contracts in the Ordinary Course of Business and (B) Granting Related Relief [**Docket No. 8**]

Status: This matter is going forward.

9. **“Customer Programs Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Maintain Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto and (B) Granting Related Relief [**Docket No. 7**]

Status: This matter is going forward.

10. **“Surety Bond Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing Debtors to Continue and Renew Surety Bond Program and (B) Granting Related Relief [**Docket No. 9**]

Status: This matter is going forward.

11. **“Insurance Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to (I) Maintain, Continue, and Renew Their Existing Insurance Program and (II) Honor Certain Prepetition Obligations in Respect Thereof and (B) Granting Related Relief [**Docket No. 11**]

Status: This matter is going forward.

12. **“Taxes Motion”** – Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing Payment of Prepetition Taxes and Fees and (B) Granting Related Relief [**Docket No. 12**]

Status: This matter is going forward.

13. **“Utilities Motion”** – Debtors’ Motion for Entry of Interim and Final Orders Determining Adequate Assurance of Payment for Future Utility Services [**Docket No. 13**]

Status: This matter is going forward.

14. **“Interim Compensation Procedures Motion”** – Debtors’ Motion for Entry of an Order (A) Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Retained Professionals and (B) Granting Related Relief [**Docket No. 14**]

Status: This matter is going forward

15. **“Extend Schedules Deadline”** – Debtors’ Motion for Entry of an Order (A) Extending the Time to File Schedules and Statements; (B) Extending the Time to Schedule the Meeting of Creditors; (C) Partially Waiving the Requirements to (I) File Equity Lists and (II) Provide Notice to Equity Security Holders; (D) Authorizing the Debtors to File a Consolidated List of the Debtors’ 30 Largest Unsecured Creditors; (E) Authorizing the Debtors to File a Consolidated and Redacted List of Creditors in Lieu of Submitting Separate and Reformatted Creditor Matrices for Each Debtor; (F) Approving the Form and Manner of Notifying Creditors of Commencement of These Chapter 11 Cases; and (G) Granting Related Relief [**Docket No. 10**]

Status: This matter is going forward

16. **“Ordinary Course Professionals Motion”** – Debtors’ Motion for Entry of an Order Authorizing the Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business [**Docket No. 15**]

Status: This matter is going forward.

17. **“Case Management Motion”** – Debtors’ Motion for Entry of an Order (A) Establishing Certain Notice, Case Management, and Administrative Procedures and (B) Granting Related Relief [**Docket No. 16**]

Status: This matter is going forward.

D. Professional Retention Applications

18. **“Prime Clerk Retention Application”** – Debtors’ Motion for Entry of an Order Authorizing the Retention and Employment of Prime Clerk LLC as Claims and Noticing Agent for the Debtors and Debtors in Possession *Nunc Pro Tunc* to the Petition Date [**Docket No. 20**]

Status: This matter is going forward.

19. **“Armstrong Teasdale Retention Application”** – Debtors’ Application Pursuant to Section 327(A) and 329(A) of the Bankruptcy Code, Bankruptcy Rules 2014(A) and 2016(B), and Local Bankruptcy Rules 2014(A) and 2016-1, for an Order Authorizing the Debtors to Retain and Employ Armstrong Teasdale LLP as Co-Counsel *Nunc Pro Tunc* to the Petition Date [**Docket No. 19**]

Status: This matter is going forward.

20. **“Paul, Weiss Retention Application”** – Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Paul, Weiss, Rifkind, Wharton & Garrison LLP as Attorneys for the Debtors and Debtors in Possession *Nunc Pro Tunc* to the Petition Date [**Docket No. 33**]

Status: This matter is going forward.

21. **“Jefferies Retention Application”** – Debtors’ Application for Authority to Employ and Retain Jefferies LLC as Investment Banker for the Debtors *Nunc Pro Tunc* to the Petition Date [**Docket No. 32**]

Status: This matter is going forward.

22. **“FTI Consulting Retention Application”** – Debtors’ Application for Authority to Employ and Retain FTI Consulting, Inc. as Restructuring Financial Advisor to the Debtors *Nunc Pro Tunc* to the Petition Date [**Docket No. 31**]

Status: This matter is going forward.

Dated: March 10, 2020
St. Louis, Missouri

ARMSTRONG TEASDALE LLP

/s/ Richard W. Engel, Jr.

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*Proposed Counsel to the Debtors and
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Exhibit B

First Day Notice

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:)	Chapter 11
)	
FORESIGHT ENERGY LP, <i>et al.</i> , ¹)	Case No. 20-41308-659
)	
Debtors.)	(Joint Administration Requested)

NOTICE OF CHAPTER 11 FILING AND OF HEARING ON FIRST DAY MOTIONS

PLEASE TAKE NOTICE THAT:

1. On March 10, 2020, Foresight Energy LP and certain of its affiliates and direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the “Debtors”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Eastern District of Missouri (the “Court”).

2. Together with their petitions, the Debtors also filed and requested a prompt Court hearing (the “First Day Hearing”) on certain first day motions (collectively, the “First Day Motions”) identified on the proposed First Day Agenda attached hereto.

3. **The Court has scheduled the First Day Hearing for March 11, 2020 at 10:00 a.m. (Central Time) in Courtroom 7 North** of the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, 111 S. 10th Street, 7th Floor, St. Louis,

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Missouri 63102. The First Day Hearing may be adjourned from time to time without further notice other than an announcement at the First Day Hearing.

4. A copy of each of the First Day Motions can be viewed on the Court's website, <http://www.moeb.uscourts.gov>, or free of charge at <https://www.primeclerk.com/foresightenergy>.

5. **Your rights may be affected.** You should read these papers carefully and discuss them with an attorney, if you have one. (If you do not have one in these bankruptcy cases, you may wish to consult one.) If you do not want the Court to grant the relief requested in the First Day Motions, or if you want the Court to consider your view on the First Day Motions, you or your attorney must attend the First Day Hearing. **If you or your attorney do not attend the First Day Hearing, the Court may grant the relief requested in the First Day Motions.**

Dated: March 10, 2020
St. Louis, Missouri

ARMSTRONG TEASDALE LLP

/s/ Richard W. Engel, Jr.

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*Proposed Counsel to the Debtors and
Debtors in Possession*